

Group III: Claims 3-7, drawn to a transformed plant, classified in class 800, subclass 205.

Additionally the Examiner required election of either a single amino acid sequence or up to 10 nucleic acid sequences. Applicants respectfully traverse the restriction requirement, and provisionally elect Group I (claim 1) drawn to SEQ ID NO: 5278-5288 for further prosecution.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Group I and Group II should be examined simultaneously because they are related as nucleic acids and the proteins encoded by said nucleic acids. Accordingly, examination of Group I and II together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to ten nucleotide sequences is improper and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences. Applicants disagree that each sequence in the application is necessarily a patentably distinct species, but provisionally elect the species of Group I (nucleic acids represented by SEQ ID NO: 5278-5288) for further prosecution.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have

provisionally elected, with traverse, Group I (claim 1 drawn to SEQ ID NO: 5278-5288).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-6343.

Respectfully submitted,



DATE: May 20, 2003

Pamela J. Sisson
(Registration NO. 53,600)

Patent Department E2NA
MONSANTO COMPANY
800 N. Lindbergh Blvd.
St. Louis, MO 63167
Telephone: (314) 694-6343
FAX: (314) 694-1671